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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/774,160

02/06/2004

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EXAMINER

WENDELL, MARK R

ART UNIT

PAPER NUMBER

3609

MAIL DATE

DELIVERY MODE

06/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/774,160

Applicant(s)

WOBBER, STEPHEN F.

Examiner

Mark R. Wendell

Art Unit

3609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20040206.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

Figures 1A and 1B should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 22 is objected to because of the following informalities: The entity "Group 2B" should be further and more clearly defined. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3609

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 15 recites the broad recitation an angle between about 40 to about 50 degrees, and the claim also recites an angle of about 45 degrees, which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3609

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Pierson (US 4955172). Pierson illustrates in Figures 1 and 2 an anchor (11) mounted on a structure (13) comprising:

- A channel body having the channel bottom connected to two walls (28,29);
- A first wall (28) being projected substantially perpendicular to the channel bottom;
- A second wall (29) being parallel to the first wall (28) and having a proximal and distal end where the proximal end is perpendicular to the channel bottom and the distal end is projected toward the channel bottom at an acute angle.

Regarding claims 3 and 4, Pierson illustrates in Figure 2 an anchor (11) of at least 1 inch in length with a plurality of fastener holes (40, 41) along its length.

Claims 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Durowal. Durowal illustrates on Page 9 keys that interlock with anchors. In specific the key labeled D/A 131 has a flat body with two ends, the first end having a slit to interlock with an anchor and the second end having an opening for mortar capture.

Art Unit: 3609

Regarding claim 10, Durowal illustrates key D/A 131 appearing to have a slit that is slanted at an acute angle between 30 and 60 degrees relative to the anchor.

Regarding claim 11, Durowal illustrates key D/A 131 having a first end that has a first and second side. The first side having a slit to interlock an anchor and the second side having a side cut.

Regarding claim 12, Durowal illustrates key D/A 131 having a second end comprising an opening for mortar capture. The opening is also suitable for embedding seismic reinforcement wire (Page 13 illustration, bottom right) and stamped tabs.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pierson (US 4955172) in view of Halfen. It is described above what is disclosed by Pierson. Pierson does not disclose the second wall of the anchor being projected toward the channel at an acute angle between 30 and 60 degrees. However, Halfen illustrates on Page 3 numerous channel profiles with second walls being projected toward the channel at

Art Unit: 3609

acute angles that appear to be within the range of 30 to 60 degrees. It would have been obvious to one of ordinary skill in the art to modify the second wall of Pierson to be projected at an acute angle between 30 and 60 degrees as disclosed in Halfen since it has been held to be within the general skill of a worker in the art to discover the optimum or workable ranges on the basis of its suitability for the intended use as a matter of obvious design choice (In re Aller, 105 USPQ 233).

Claims 5, 14-16, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierson (US 4955172) in view of Durowal. It is described above what is disclosed by Pierson. Pierson does not disclose a channel body comprising a non-corrosive material such as stainless steel or hot-dip galvanized steel. However Durowal discloses on Page 4, under the paragraph "Finishes" that it is recommended to use stainless steel or hot-dip galvanized steel for anchors and trusses. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the anchor of Pierson using the materials recommended by Durowal because, as described by Durowal, in an area of potentially high moisture content (such as a masonry veneer wall) those materials would be economical and resist corrosion.

Regarding claim 14, Pierson discloses at least one anchor mounted on a structure as described above. Pierson does not disclose a key interfacing with the masonry veneer. However, Durowal discloses at least one key as described above. It would have been obvious to one of ordinary skill in the art at the time of invention to combine the anchor

Art Unit: 3609

of Pierson and the key of Durowal with the motivation of creating a wall reinforcement system or a system for hanging objects.

Regarding claim 16, Pierson illustrates in Figure 2 an anchor (11) of at least 1 inch in length.

Regarding claim 19, neither Pierson nor Durowal disclose the anchor comprising a coating of adhesive material on the outer surface of the channel. The examiner takes official notice that it is well known within the art of building construction to use an adhesive on the outer surface of an object to provide extra strength to that object in order to withstand external elements such as wind. It would have been obvious to one of ordinary skill in the art to modify the anchor of Pierson to include an adhesive with the motivation of adding additional bonding strength to the object while installing the anchor or to withstand external elements.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pierson (US 4955172) in view of Durowal, as applied to claims 5, 14-16, 18-19, in further view of Hohmann (US 5816008). It is discussed above what is disclosed by Pierson and Durowal. Neither discloses an anchoring system with at least two anchors. However, Hohmann discloses an anchoring system with at least two anchors where each anchor (40) is mounted on a structure (26) in alternate orientation with respect to the adjacent anchor. It would have been obvious to one of ordinary skill in the art at the time the

Art Unit: 3609

invention was made, with the motivation of further strengthening the veneer wall, to include at least two anchors within the anchoring system, since it has been held that mere duplication of the essential parts of a device involves only routine skill in the art (St. Regis Paper Co. v. Bemis Co., 193 USPQ 8).

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pierson (US 4955172) in view of Durowal in further view of Halfen. Pierson discloses an anchor as described above, but does not disclose a key or a proximal end of the second wall being projected at an acute angle toward the channel. Halfen illustrates on Page 3 numerous channel profiles with second walls being projected toward the channel at acute angles within the range of about 30 to 60 degrees. Durowal illustrates key D/A 131 having a slit that is slanted at an acute angle between about 40 and 50 degrees. It would have been obvious to one of ordinary skill in the art to modify the second wall of Pierson to be projected at an acute angle between 30 and 60 degrees as disclosed in Halfen since it has been held to be within the general skill of a worker in the art to discover the optimum or workable ranges on the basis of its suitability for the intended use as a matter of obvious design choice (In re Aller, 105 USPQ 233). It would also be obvious to one of ordinary skill in the art to combine the anchor of Pierson as modified by Halfen with the key as disclosed by Durowal, with the motivation of forming an anchoring or hanging system on an object.

Art Unit: 3609

Claims 6, 13, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierson (US 4955172) and Durowal and in further view of Schilger (US 4885884). It is described above what is disclosed by Pierson and Durowal. Neither discloses that the hot-dip galvanized steel is in a gauge from about 11 to about 20. However, Schilger discloses in Column 1, lines 57-62, wall constructing objects being fabricated from an about 10 to 25 gauge galvanized steel sheet. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the anchor of Pierson as modified by Durowal by fabricating it with about 11 to about 20 gauge hot-dip galvanized steel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice (In re Leshin, 125 USPQ 416).

Art Unit: 3609

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierson (US 4955172). It is described above what is disclosed in Pierson. Pierson does not disclose the anchor comprising a coating of adhesive material, with a peelable backing, on the outer surface of the channel. The examiner takes official notice that it is well known within the art of building construction to use an adhesive on the outer surface of an object to provide extra strength to that object in order to withstand external elements such as wind. It would have been obvious to one of ordinary skill in the art to modify the anchor of Pierson to include double-sided tape (which has a peelable backing) with the motivation of adding additional adhesive strength to the object while installing the anchor or to withstand external elements.

Claims 21-23, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierson (US 4955172) and Halfen and in further view of Krengel (US 3259148). It is described above what is disclosed by Pierson and Halfen, however neither discloses the method of shaping a first form to create an anchor or dipping the anchor into a molten substance. The examiner notes that it is notoriously well known to one of ordinary skill in the art to shape an object during the process of making it. Krengel discloses in Columns 9 and 10, lines 73-75 and 1-2 dipping the tube or anchor into molten zinc. The examiner notes that Krengel discloses an oxide layer (claim 26) formed by dipping the key into a molten substance in Column 3, lines 14-41. The

Art Unit: 3609

combination of the items disclosed renders the claimed method steps obvious since such would be logical manner of making the combination.

Regarding claim 23, it is notoriously well known in the art to use an adhesive to provide extra strength to an object to withstand external elements such as wind. It would have been obvious to one of ordinary skill in the art to modify the anchor of Pierson to include double-sided tape (which has a peelable backing) with the motivation of adding additional adhesive strength to the object while installing the anchor or to withstand external elements. The combination of the items disclosed renders the claimed method steps obvious since such would be logical manner of making the combination.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierson (US 4955172) and Halfen and in further view of Durowal. It is described above what is disclosed by Pierson, Halfen, and Durowal. It is notoriously well known to one of ordinary skill in the art to shape an object (like a key) during the process of making it. The combination of the items disclosed renders the claimed method steps obvious since such would be logical manner of making the combination. It would have also been obvious to one of ordinary skill in the art at the time of invention to make the key from 20-gauge galvanized steel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice (In re Leshin, 125 USPQ 416).

Art Unit: 3609

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Handel (US 2338328) teaches an anchor for use in veneering concrete structures. Lapish (US 5035099) teaches a wall tie / key structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark R. Wendell whose telephone number is (571) 270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Batson
Supervisory Patent Examiner
Art Unit 3609

MRW
June 14, 2007